IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.16151 of 2006

DATE OF DECISION: November 20,2006

Vikas Kumar

….Petitioner

VERSUS

The State of Punjab and others

…..Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S. BHALLA

PRESENT: Shri Ashok Singla, Advocate for the petitioner.
Shri Sukhdip Singh Brar, Additional Advocate General, Punjab,
Shri Baldev Sharma, Advocate for respondents No.7 and 8.

Viney Mittal,J.

For the purpose of award of sanitation contract, Municipal Council, Faridkot had divided the sity in two parts i.e. Part A and Part B for the year 2005-06. In an open auction conducted after due pubicity, the aforesaid sanitation work was allotted to Mangal Singh, respondent No.7 and Lakhwinder Singh, respondent No.8, for an amount of Rs.1.82 lacs and Rs.1.62 lacs per month, respectively. The term of the aforesaid contractors was due to expire on April 30,2006. The aforesaid term of the contractors was extended upto July 31, 2006. Approval in this regard was granted by the Director, Local Bodies, Punjab, Chandigarh. At the time of extension, office of President and office of Vice President were vacant. Later on, a

Resolution No.367 dated June 26, 2006 was passed by the Municipal Council, whereby the aforesaid sanitation contracts granted to Mangal Singh, respondent No.7 and Lakhwinder Singh, respondent No.8 were extended upto July 31, 2007. The Municipal Council took the aforesaid decision to extend the contracts of the aforesaid contractors, taking into consideration their satisfactory performance and also keeping in view the fact that the re-advertisement and fresh auction would require a lot of expenditure. The extension of the aforesaid contract of the said contractors, respondents No.7 and 8 is subject matter of challenge through the present petition. It has been claimed by the petitioner that award of the contract to the aforesaid contractors for the year 2005-06 was itself arbitrary and with a view to favour the said contractors. The petitioner has also challenged the grant of extension to the said contractors by alleging that Mangal Singh, contractor respondent No.7 was real brother-in-law of Jovan Singh, President of Municipal Council, Faridkot.

It may be relevant to notice that the earlier also, the petitioner had filed various representations making a grievance against the extension of contract of the aforesaid contractors. When the aforesaid representations had remained undecided, he had approached this Court through CWP No.11679 of 2006. The said writ petition filed by the petitioner was disposed of by this Court by issuing directions to the Deputy Commissioner, Faridkot to consider the aforesaid representations and pass a detailed and speaking order. In pursuance to the said directions issued by this Court, the Deputy Commissioner has now passed a detailed order on September 27, 2006, whereby all the pleas raised by the petitioner have been

considered and his claim has been rejected. The aforesaid order dated September 27, 2006 has been appended as Annexure P.6 with the present petition and is also subject matter of challenge. Additionally, the petitioner has challenged the resolution passed by the Municipal Council and approval granted to the same by the Director.

The claim of the petitioner has been contested by the respondents. A written statement has been filed on behalf of respondents No.4 and 5. In the said written statement, the award of the contract, and the extension thereof, to respondents No.7 and 8 has been defended. It has been maintained by the Municipal Council that the contract was awarded to the aforesaid respondents initially for the year 2005-06 and at that point of time the petitioner had not even participated in the said auction proceedings. The Municipal Council has further maintained that the work of the contractors had remained satisfactory and the resolution of the Municipal Council awarding the said contract and extending the same had remained in force for more than one year. It has also been pleaded that extension had been granted in terms of the stipulation in the contract that the term of the contract could be increased or decreased. It has been specifically pleaded by the Municipal Council that at the time of extending the period of contract of respondents No.7 and 8, the posts of President and Vice President of Municipal Council were vacant and as such it could not be said that any undue favour was shown to the said respondents.

We have heard the learned counsel for the parties and have also considered the various pleas raised by them.

It is not in dispute that initially the contract awarded to respondents No.7 and 8 was valid upto April 30, 2006. After the expiry of said period, the same was extended upto July 31, 2006. Later on, the Municipal Council had passed a Resolution, whereby keeping in view the satisfactory performance of the said contractors and also with a view to avoid unnecessary expenses, it was decided to extend the term of the contract upto July 2007. Initial extension granted to the contractors as well as the subsequent extension were approved by the Director, Local Bodies, Punjab. It is also not in dispute that at the time of initial awarding of the contract to respondents No.7 and 8, the petitioner had not participated in the auction proceedings. Although the petitioner maintains that the auction in favour of respondents No.7 and 8, and consequential awarding of the contract to them initially, was also on account of favouritism and was bad in law, it is also apparent that the aforesaid awarding of the contract in favour of respondents No.7 and 8 had never been challenged by the petitioner, at any stage, when the same was awarded. It appears that the petitioner later on got interested in the said contract and started making complaints/representations.

We have also been informed, as noticed above, that the extended term is also to expire in the month of July 2007. In these circumstances, it would be absolutely not justified to interfere at this stage and hold that the extension granted to respondents No.7 and 8 was in any manner vitiated.

However, it would be appropriate to issue directions to the extent that after the expiry of the term of contract of respondents No.7 and 8 in July 2007, no further extension shall be granted to

them but a fresh process for awarding the contract of sanitation shall be initiated, well in time, so that immediately on the expiry of the term of respondents No.7 and 8, the new contract can be awarded. Needless to say that while initiating the fresh process, due publicity shall be given, enabling all the willing contractors, including the petitioner, to participate in the fresh process.

But for the directions issued above, we do not find any merit in the challenge of the petitioner and, therefore, the writ petition is dismissed accordingly.

A copy of the order be given dasti on payment of usual charges.

(Viney Mittal)
Judge

November 20, 2006
KD

(H.S. Bhalla)
Judge